

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

MICHAEL JERARD CAYWOOD
a/k/a MICHAEL J. CAYWOOD,
Debtor(s).

CHAPTER 7

CASE NO. 11-50934-JRS

JUDGE JAMES R. SACCA

U.S. BANK, N.A., ITS
ASSIGNS AND/OR SUCCESSORS
IN INTEREST,

Movant,

vs.

MICHAEL JERARD CAYWOOD
a/k/a MICHAEL J. CAYWOOD,
and NEIL C. GORDON, as
Trustee,

Respondents.

CONTESTED MATTER

NOTICE OF HEARING

PLEASE TAKE NOTICE that U.S. Bank, N.A., Its Assigns And/Or Successors In Interest has filed a Motion to Terminate Stay and to Authorize Movant to Take Possession of Collateral and related papers with the Court seeking an order lifting the stay as to a certain property located at 1477 Cutstone Court, Atlanta, GA 30349.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion to Terminate Stay, in Courtroom 1404, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, GA 30303-3361, at 1:30 PM on 02/22/2011.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in these pleadings, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address for the Clerk's Office is: Clerk, United States Bankruptcy Court, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, GA 30303-3361.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.


Ronald A. Levine /s/

Ronald A. Levine, Ga. Bar No. 448736

LEVINE, BLOCK & STRICKLAND, LLP.

Centrum at Glenridge

780 Johnson Ferry Road, Suite 240

Atlanta, Georgia 30342 (404) 231-4567

Attorney for Movant

Barrett, Daffin & Frappier, LLP.
15000 Surveyor Boulevard, Suite 100
Addison, TX 75001

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IN RE:)	CHAPTER 7
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MICHAEL JERARD CAYWOOD)	CASE NO. 11-50934-JRS
a/k/a MICHAEL J. CAYWOOD,)	
)	JUDGE JAMES R. SACCA
Debtor(s).)	
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U.S. BANK, N.A., ITS)	CONTESTED MATTER
ASSIGNS AND/OR SUCCESSORS)	
IN INTEREST,)	
)	
Movant,)	
)	
vs.)	
)	
MICHAEL JERARD CAYWOOD)	
a/k/a MICHAEL J. CAYWOOD,)	
and NEIL C. GORDON, as)	
Trustee,)	
)	
Respondents.)	

**MOTION TO TERMINATE STAY AND TO AUTHORIZE MOVANT TO
TAKE POSSESSION OF COLLATERAL AND WAIVER OF RIGHT TO HEARING
WITHIN 30 DAYS AS PROVIDED BY 11 U.S.C. SECTION 362(e)**

COMES NOW U.S. BANK, N.A., ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST (hereinafter referred to as "US BANK") and respectfully represents the following:

1.

The within and foregoing Petition under Chapter 7 of the Bankruptcy Code was filed on 01/06/2011.

2.

This is a Motion under Section 362(d) of the Bankruptcy Code for relief from the automatic stay for the purpose of foreclosing on certain real property.

3.

Respondent(s) executed a deed to secure debt and note which was assigned to US BANK for value, US BANK retaining first priority

lien and security interest in the property commonly known as 1477 Cutstone Court, Atlanta, GA 30349, all of which is more fully described in Exhibits "A" and "B" attached hereto and made a part hereof.

4.

Movant is presently unable to take possession of its collateral and enforce its contractual rights unless the Court terminates, annuls, modifies or otherwise conditions the automatic stay under 11 U.S.C. § 362 .

5.

Movant does not have and has not been offered adequate protection by the Respondent. Movant has not been receiving payments as the account is due for the 08/01/2010 payment. As of 01/25/2011, the Debtor(s) account was \$7,592.49 delinquent, which represents the payments for 08/01/2010-1/1/1/2011(\$1,211.69 each)plus late fees of \$242.35 and other fees of \$80.00.

6.

Further, because there may be little or no equity in the property which could benefit the estate, the Trustee's interest should be deemed abandoned. The debt owing to US BANK on the account is \$141,687.33 net balance and interest is due thereon in accordance with the Note.

7.

In accordance with the Security Agreement, Debtor is responsible for Movant's reasonable attorney's fees.

8.

Movant makes this request pursuant to 11 U.S.C. §362 and seeks a hearing pursuant to §362(e) and seeks a hearing pursuant to 362(e) and waives right to hearing within thirty (30) days as

provided by 11 U.S.C. Section 362(e).

WHEREFORE, Movant prays:

- (a) That this Court grant Movant an immediate hearing;
- (b) That after notice and hearing, Movant be entitled to unrestrained possession, custody and control of the aforescribed collateral and be permitted to proceed as by law allowed;
- (c) That the court grant Movant reasonable attorney fees;
- (d) That the Court grant immediate relief and waive the requirements of 4001(a)(3); and
- (e) That the Court grant such other relief as is just and proper.

Respectfully submitted,

LEVINE, BLOCK & STRICKLAND, LLP



BY: Ronald A. Levine /s/
Ronald A. Levine, Esq.
[GA Bar No. 448736]
ATTORNEYS FOR MOVANT

780 Johnson Ferry Road
Suite 240
Atlanta, Georgia 30342
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15000 Surveyor Boulevard
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Addison, Texas 75001

BANKRUPTCY NO.11-50934-JRS
CHAPTER 7
JUDGE JAMES R. SACCA

CERTIFICATE OF SERVICE

I, Ronald A. Levine, Esq. of Levine, Block & Strickland, LLP., 780 Johnson Ferry Road, Suite 240, Atlanta, Georgia 30342 certify:

That I am, and at all times hereinafter mentioned, was more than 18 years of age:

That on the 02nd day of February, 2011, I served a copy of the within and foregoing NOTICE OF ASSIGNMENT OF HEARING together with the MOTION FOR RELIEF FROM STAY filed in this bankruptcy matter on:

MICHAEL JERARD CAYWOOD a/k/a MICHAEL J. CAYWOOD

the respondent(s) in this bankruptcy matter by First Class Mail addressed to the said respondent(s) at:

Michael Jerard Caywood
a/k/a Michael J. Caywood
1477 Cutstone Court
College Park, Georgia 30349

and upon Debtor/Defendant(s) attorney:


E. L. Clark, Esquire
Clark & Washington
3300 Northeast Expressway
Building 3, Suite A
Atlanta, GA 30341

and upon Trustee-in-Bankruptcy:

Neil C. Gordon, Esq.
Arnall, Golden & Gregory, LLP
Suite 2100
171 17th Street, NW
Atlanta, GA 30363

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on 02.08.11
(Date)

By:  Ronald A. Levine /s/
Ronald A. Levine, Esq.
(Ga. Bar No. 448736)